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Legislative Update & Research Reports

Robert J. Sheheen, Speaker of the House

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REPRODUCED BY THE LEGISLATIVE COUNCIL

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Legislative Update

Legislation Introduced

Children

Foster Care Review Board (H.2487, Rep. Evatt). This bill would direct that the Board review at least every six months the cases of children in public foster care for more than four consecutive months.

Education

School bus routes (H.2458, Rep. M.D. Burriss). Currently the state has the obligation to provide transportation for children who live 1 1/2 miles away from a school. This bill would reduce that distance to 1/2 mile.

My science project (S.81, Sen. Mitchell). A measure that would allow equipment confiscated during drug arrests to be donated to public schools in the county where the seizure took place. The material would include such things as scales, beakers, burners, and so forth. Transfer would take place after the equipment was no longer needed as evidence.

School bus drivers (H.2493, Rep. Haskins). School bus drivers would have to be at least 21 years old, according to this bill.

"Student protection act" (H.2494, Rep. McAbee). Employees and applicants for employment in school districts would be required to authorize a criminal background investigation on themselves. This investigation would include contacting the FBI and the Department of Corrections, looking for any history of serious crimes and crimes relating to sexual offenses or offenses against children.

Teacher qualifications (H.2502, Rep. Ogburn). Currently, prospective teachers have three chances to pass the basic skills exam. This bill would delete that limit.

School bus license plates (H.2506, Rep. Rudnick). This bill would limit the license plates on school buses to three symbols: either three letters, three numbers, or three letters and/or numbers.

Smoking in the boys' room (H.2511, Rep. Davenport). Despite what the song says, there would be no smoking in the boys' room, or anywhere else in schools, for persons under eighteen. This bill would allow the principals of schools to designate smoking areas for adults, such as teachers or visitors.

Environment

Billboards (H.2453, Rep. Ogburn). This measure would prohibit billboards from the public highways. The Department of Highways and Public Transportation would be directed to come up with a plan to remove the billboards over a five-year period, and make a report to the General Assembly by April 1, 1988. A similar bill, H.2004, was filed earlier this session. That bill was more specific, in that it required one-fifth of the billboards to be removed each year until they were gone.

Fiscal

Countywide taxes for services (H.2447, Rep. Aydlette). A county would not be permitted to impose a countywide tax to provide a service, if a municipality or special purpose district within the county already provided that same service.

Government Operations

Election of PSC members (H.2445, Rep. Baker). This bill would divide the state into three Public Service Commission election districts. District One would be composed of Congressional Districts 1 and 2; District Two would be Congressional Districts 3 and 4; and District Three would be Congressional Districts 5 and 6.

One commissioner would be elected by the voters from each PSC District, starting in 1988. Three other members would be chosen by the General Assembly. Commissioners would serve an eight-year term, and could not succeed themselves.

"Whistle blower" protection (S.131, Sen. Pope). This legislation proposes protection for public employees who report violations of state or federal law where they work. These are popularly known as "whistle blowers." All agencies, boards, commissions and other bodies which receive public funds are included, and all of their employees.

If an employee is fired, demoted, or otherwise punished within one year after reporting a violation, it is presumed that the two are related. It would be up to the employer (the agency or whatever) to show that the employee deserved the punishment for some other, legitimate reason—such as habitual absence or tardiness, showing up intoxicated for work, destroying agency property, and so forth.

However, if the employee wins the case, then the person responsible for the punishment would be guilty of a misdemeanor and could be fined between \$3,000 and \$6,000 or imprisoned for two to five years, or both. In addition, the employee can file a civil action for damages and/or reinstatement to his or her former position. If the employee wins the civil suit, the court can award both actual and punitive damages, and the amount of any damages awarded is tripled. However, the employee has two years in which to commence the action.

Finally, when the whistle blower blows, then from the "saving of any public money from the abuses described in this section, ten percent of any money saved, but not more than five thousand dollars, must be rewarded to the employee by the public body."

South Carolina already has a government fraud hot-line. In California, the use of whistle blowing to improve state government operations has been taken even further. See the brief report on page 21.

Single-member district county councils and their chairmen (H.2488, Rep. Wilkins). Counties which have single-member districts for their governing body would also have to have one member elected at-large, who would serve as the chairman.

Offices of honor or profit (H.2497, Rep. Harvin). This measure proposes a constitutional amendment to add members of volunteer fire departments from the ban on dual office holding—that is, holding more than one "office of honor or profit." Already exempt: officers of the militia, notaries public, and delegates to Constitutional conventions.

Legislative Audit Council and school districts (H.2509, Rep. Thrailkill). The Legislative Audit Council is the investigative arm of the General Assembly, and studies "any fiscal matter or question which may be referred to it by the General Assembly or any of its members or committees...." The studies include compliance with state and federal laws, efficiency and economy of state agency operations, and the effectiveness of the agencies in achieving the desired program results.

State agencies are defined in 2-15-50 of the Code, and include such organizations as commissions, universities, colleges, departments—those groups spending state money. Counties are excluded. School districts are not mentioned at all.

This bill would include some school districts in this list--specifically, those which receive \$5 million or more in state funds.

Private citizens, public meetings (H.2510, Rep. Davenport). This bill would require that all public bodies (as defined in the Freedom of Information Act, 30-4-20) must provide at least fifteen minutes during all their public meetings for private citizens to speak their minds--without having to give prior warning or get put on the agenda.

Health

Social workers (H.2450, Rep. Foster). This bill would revise the sections of the Code dealing with social workers in South Carolina, changing the composition of the Board of Social Worker Registration and setting up certain standards for social workers to meet before getting a license.

The Board would be composed of seven members (it's now six), appointed by the Governor for terms of four years. Members could serve no more than two consecutive terms. The board would include one lay member, two licensed baccalaureat social workers, three licensed master social workers, and one licensed independent social workers. The purpose of the board would be: 1) to determine which applicants are eligible to be social workers (including giving examinations); 2) hear complaints; 3) promulgate necessary regulations.

To become a licensed baccalaureat social worker a person would have to 1) have a degree in social work or social welfare or a degree in sociology or psychology and 2) pass an exam administered by the board. Licensed master social workers would have to have a MA or PhD degree and pass the exam. An independent social worker would have to possess an MA or PhD degree, have post-graduate social work education, and two years of professionally supervised experience, as well as passing an exam.

The Board could require continuing education for licensed social workers.

The Board would also hear complaints about the actions of social workers. The bill provides the procedures for processing these complaints.

Finally, the provisions of the bill do not forbid the clergy, attorneys, doctors and others from delivering services which are practically the same as those offered by social workers. The only restriction would be that such persons do not describe themselves as being social workers as the term is defined by the legislation.

Additional cigarette tax # 1 (H.2485, Rep. Aydlette). This bill would impose an additional five mill tax on all cigarettes. The revenue from this tax would go to the South Carolina Cancer and Lung Disease Research Fund, and money from the Fund could be appropriated solely for such research in South Carolina. Another bill, H.2508 (see below) would simply raise the tax to 5 mills.

Blood test for food service workers (H.2489, Rep. E.B. McLeod). This bill would require that any person hired to work in a food service or food processing establishment would first have to get a blood test from DHEC showing they were free from communicable diseases. This test would have to be done within thirty days of their application for work. Hiring a person without the test could bring a fine of \$1,000 and/or one year in jail.

Continuing education for cosmetologists (H.2505, Rep. Rudnick). In the Code, 40-13-240 says that cosmetologists must furnish proof to the board of continuing education to have their license renewed. This legislation would delete that requirement for cosmetologists who have held their license for thirty years.

Additional cigarette tax # 2 (H.2508, Rep. Rudnick). This bill would raise the cigarette tax to 5 mills (currently 3.5 mills), but would set no requirements as to where the money went or how it was spent.

Highways, Byways and Safety

Cutting and transporting pulpwood (H.2455, Rep. O. Phillips). Planning to cut pulpwood and transport it on the highway? If this bill becomes law, you would be required to notify the Engineering Administrator of the Highway District of the county where the work will be done at least 24 hours before. The Highway Department would have the option of putting up "Mud on the Road" signs, as needed, for greater safety for motorists in the area.

Driving without a license (H.2486, Rep. Nettles). The penalties for driving without a license would be increased by this bill.

<u>Offense</u>	<u>Currently</u>	<u>Proposed</u>
First	\$25 to \$50 fine	\$25 to \$100 fine
Second	\$50 to \$500 fine or 30 days	\$500 fine and 60 days
Third	—	45 days to 6 months

Headlights on in bad weather (H.2507, Rep. Rudnick). This bill would require drivers to turn on their headlights when they use their windshield wipers, or when "inclement weather or environmental factors" reduce visibility to less than 500 feet. It would also add this requirement to the streets, as well as highways.

Parking on private property (H.2513, Rep. Hayes). 16-11-760 of the Code makes it illegal to park without permission on private property, but sets no penalties. The vehicle may be towed away at the owner's expense, and sold after thirty days, but no fine, no jail term. This bill would set both: up to \$100 as a fine, or 30 days as a sentence.

Labor, Commerce and Industry

Insurance company suits against rate freezes (H.2454, Rep. J. Bradley). Any insurance company that lodged a court challenge against a moratorium on additional rate increases imposed by the Insurance Department would lose its authority to do business in South Carolina for one year, starting from the date the case was filed.

Workers' Compensation Commission (H.2484, Labor, Commerce and Industry Committee). Presently the Director serves for a six-year term. This bill would say that the Director is "at all times directly responsible to the Governor." and can be removed at any time, with due notice and a chance for a hearing.

The bill would also require the Director to put together a written personnel manual, with job titles and job descriptions, procedures, and so forth. Quarterly management reports would be submitted to the Governor, and to appropriate committees of the General Assembly upon their request. An annual report would be delivered to the General Assembly.

Changes in Insurance Commission (H.2498, Rep. O. Phillips). This measure proposes popular election for the Insurance Commissioner, starting in 1990, and replacing the Insurance Commission with a group called the insurance advisory board.

The Commissioner would have a four-year term, and could serve more than one term. The members of the advisory board would be the Commissioner and six members appointed by the governor, three of them having "experience which makes them familiar with the purposes and practices of the insurance business." The purpose of the board would be to advise the Commissioner and make recommendations.

These changes would go into effect only if the voters approved of them in a state-wide referendum in the 1988 general election.

Energy efficiency for homes (H.2517, Rep. Edwards). This bill is designed to improve the energy efficiency standards for homes and manufactured housing by setting the insulation (or "R value") standards that must be met to reduce heat loss, and so forth. The bill's preamble says that it could save "seven billion dollars over the next two decades," and "add fifteen billion dollars to our

income." Another benefit from the bill (as the bill says) is that it would reduce the need for additional electric power, thus saving customers in two ways: lower electric bills for the power they use, and lower rates for the new plants they don't have to help pay for.

Law and Justice

"Guilty but mentally ill" (H.2446, Rep. Wilkins). Currently, "guilty but mentally ill" is allowed both as a verdict, and as a plea in criminal cases. This measure would amend the Code so that there could be a verdict, but no plea of "guilty, but mentally ill."

Criminal conversation, alienation of affection (S.97, Sen. Pope). Criminal conversation (often abbreviated to *crim. con.*) is not talking about burglary or bank robbing, but rather enticing someone to have an adulterous affair. In the words of *Black's Law Dictionary*, "defilement of the marriage bed." It is a tort, or injury, for which damages can be sued for in civil actions.

Alienation of affection is quite similar, being defined by *Black's* as "The robbing of husband or wife of the conjugal affection, society, fellowship, and comfort which inheres in the normal marriage relation." This bill would remove these two activities as cause for civil cases in our courts.

Permissible inferences (H.2490, Rep. Sheheen). This bill would specify when it is permissible to make inferences about criminal actions of persons. For example, it would be "permissible to infer" that all the members of a mob when an act of violence takes place aided and abetted in the crime. It would be permissible to infer that a person who has a private, un-authorized connection to a cable TV system is stealing the signal. In a similar fashion, when someone is discovered with concealed, unpurchased goods, it would be permissible to infer they were shoplifting.

The bill would allow a number of other permissible inferences, including fraudulent acquisition of tickets (tickets bought at a discount from someone other than an authorized agent); distribution of obscene material (if someone gets caught with two or more copies of identical obscene material, the permissible inference is they plan to distribute the dirty books); and there are sections dealing with desecration of flags, embezzlement of public funds, and the testing for blood alcohol content for DUI.

These changes are made to bring these various sections into conformity with existing constitutional law.

No paramilitary training (H.2495, Rep. Washington). This measure would outlaw paramilitary training in South Carolina—that is, teaching people warfare under battle field conditions. The armed forces, Guard and law enforcement agencies would be exempt.

Update on Legislation Introduced

The following bills, first noted in the *Legislative Update* when they were introduced, have moved along in the course of debate and action. A short summary of the bill is given, along with its present status, and the *Update* issue in which notice first appeared.

Aging

Retirement base increase (H.2041, Rep. P. Harris). A one-time increase in the base benefit amount for members of the state retirement system. Tabled in Ways and Means Committee. UPDATE #1.

Truck registration (H.2229, Rep. Hearn). Would have exempted persons over 65 from having to pay fees for their personal trucks. Tabled in the Education and Public Works Committee. UPDATE #4.

Children

Child support (H.2009, Rep. Ferguson). Would have limited monetary payments of child support to no more than 30% of a person's after-tax pay. Tabled in Judiciary. UPDATE #1.

Marriage license fees (H.2187, Rep. Keyserling). Would raise license fees with money going to DSS programs on family violence and spouse abuse. Debate adjourned to Tuesday, March 3. UPDATE #3.

Minors in liquor stores (H.2127, Rep. Aydlette). Would have imposed penalties on minors entering liquor stores without parents or guardians. Tabled in Judiciary. UPDATE #3.

Minors and alcohol (H.2296, Rep. Rudnick). Increases fines for minors caught with alcohol. Passed House on February 18; now in Senate Judiciary. UPDATE #4.

Education

Raising drop-out age (H.2055, Rep. Kirsh). Sets the age at which students can drop out at 17, instead of the current 16. Passed House on February 18; now in Senate Education. UPDATE #1.

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Hazing (H.2121, Rep. Nettles). Forbids hazing in schools and colleges. Imposes penalties. Exempts athletics and military training. Passed House on February 25; in Senate Judiciary Committee. UPDATE #3.

English the official language (H.2191, Rep. Mattos). Makes English the official language of the state of South Carolina. Capice? Passed House on February 4; now being translated for the Senate Committee on Education. UPDATE #3.

Drivers' education (H.2200, Rep. Blackwell). Would make drivers' ed optional instead of mandatory and allow schools to charge fees. Ordered for consideration tomorrow on February 19. UPDATE #3.

Environment

Billboards banned (H.2004, Rep. Aydlette). Would have phased out billboards over a five-year period. Tabled in Education and Public Works Committee. UPDATE #1.

Airboats regulated (H.2071, Rep. Altman). Prohibits use of airboats on certain waters in the state. Second reading on February 19. UPDATE #1.

Littering fines (H.2254, Rep. Boan). Stiffens the fines that can be imposed for littering, raising them to \$50 minimum, \$200 maximum. Passed House on February 11; now in Senate Judiciary Committee. UPDATE #4.

Families

Divorce (H.2087, H.2088, Rep. P. Bradley). Would have amended state constitution to change definitions relating to period of continuous separation needed for divorce actions. Both measures tabled in Judiciary. UPDATE #2.

Divorce (H.2234, Rep. McElveen). Alters the definition of "residence" and "resident" to include military personnel stationed in South Carolina. Passed House on February 17; now in the Senate Judiciary Committee. UPDATE #4.

Fiscal

Bingo for recreation (H.2085, Rep. J. Rogers). Proposes increasing certain bingo operating fees and using the money for local parks and recreation facilities. Ordered for consideration tomorrow on February 18, 1987. UPDATE #2.

Municipal property tax collection (H.2118, Rep. Kirsh). Would permit municipalities to set up procedures to collect delinquent property taxes. In debate. UPDATE #3.

Income tax rates (H.2128, Rep. Huff). Would have adjusted the tax rates for the state personal income tax. Tabled in Ways and Means Committee. UPDATE #3.

Tax credits (H.2137, Rep. P. Harris). Would have given tax credits to persons financially responsible for individuals in skilled or intermediate care centers. Tabled in Ways and Means. UPDATE #3.

Pinball games (H.2153, Rep. Beasley). Would have adjusted taxes on coin-operated devices. Tabled in Ways and Means. UPDATE #3.

Government Operations

No charges for state agencies (H.2007, Rep. Elliott). No state agency would have been permitted to charge fees for its services, such as inspecting swimming pools. Tabled in Ways and Means. UPDATE #1.

Use of deadly force by homeowners (H.2025, Rep. Harvin). Would have allowed homeowners more latitude in protecting themselves. Tabled in Judiciary. UPDATE #1.

SLED protection (H.2047, Rep. Limehouse). Would have limited SLED guards of public officials to 72 hours, unless Governor approved in writing. Tabled by Judiciary. UPDATE #1.

Freedom of Information Act strengthened (H.2048, Rep. Limehouse). Would have increased access to debates, documents and records of public bodies. Tabled in Judiciary, and replaced with a Committee bill which accomplished much the same as the original legislation. UPDATE #1.

Judicial nominating committee (H.2082, Rep. Corning). Proposed a plan to screen and nominate judges for the state. Tabled by Judiciary. UPDATE #2.

Elect Family Court judges (H.2303, Rep. Rudnick). Would have had Family Court judges elected in non-partisan elections, starting in 1988. Tabled in Judiciary Committee. UPDATE #4.

Magistrates elected (H.2308, Rep. Rudnick). Would have them chosen by voters, beginning at next general election. Details to be worked out later by the General Assembly. Debate interrupted on February 19. UPDATE #4.

Public Service Commission elected (H.2309, Rep. Rudnick). One commissioner would have been selected by the voters from each Congressional District. Tabled in Judiciary Committee. UPDATE #4.

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Amendment by initiative (H.2310, Rep. Rudnick). Would have allowed amending the state constitution by popular initiative. Tabled in Judiciary. UPDATE #4.

Alien ownership of land (H.2313, Rep. Rudnick). Would have required aliens to file copies of their deeds to land in South Carolina with the Secretary of State. Critics said it would discourage investment in the state, denying needed capital and revenues. Supporters said it would help keep track of our most valuable resource, our land. The bill was tabled in Judiciary. UPDATE #4.

Circuit judges elected (H.2316, Rep. Rudnick). Terms of office would have been six years. Tabled in Judiciary. UPDATE #4.

Changing political parties (H.2317, Rep. Rudnick). Elected to office as a member of one party, you would have to resign that office before switching to another party. Tabled in Judiciary Committee. UPDATE #4.

Magistrate elections (H.2342, Rep. Moss). Would have had magistrates elected in non-partisan election. Tabled in Judiciary Committee. But see H.2308, above, for a similar bill. UPDATE #5.

Mailing list for acts (H.2345, Rep. Wilkins). Adds justices of the state Court of Appeals to those who receive copies of acts passed by the General Assembly. Passed the House on February 4; given third reading, with amendments, in the Senate on February 19. UPDATE #5.

Handicapped

Deaf in court (H.2159, Rep. Hearn). Interpreters would have to be provided for deaf persons involved in court proceedings. Passed House on February 4; now in Senate Judiciary. UPDATE #3.

Health

Patient care advisory committee (H.2091, Rep. Keyserling). Would have set up such committees in hospitals for guidance and support of patients. Tabled by the House. UPDATE #2.

Copy of health reports (H.2176, Rep. Lockemy). Patients can get a copy of their health reports that are sent from doctors to third parties, such as insurance companies. Ordered to third reading on February 18. UPDATE #3.

Reauthorize Dentistry Board (H.2209, Rep. Thrailkill). Passed House on February 4; now in the Senate Medical Affairs Committee. UPDATE #4.

Highways, Byways, Airways and Safety

License plate for Purple Heart recipients (H.2035, Rep. J. Bradley). Would allow those who have earned the Purple Heart to have special license plates for their vehicles. Third reading in House on February 3; now in Senate Committee on Transportation. UPDATE #1.

Flying under the influence (H.2050, Rep. Kirsh). Would make it illegal to operate an aircraft or be a crew member while drunk or drugged. Third reading on February 5; now in Senate Judiciary. UPDATE #1.

Drivers license compact (H.2130, Rep. Hayes). Sharing information about the driving records of persons among states who join the compact is the aim of this bill. Ordered to third reading on February 19. UPDATE #3.

Speciality license plates for dealers (H.2152, Rep. Harvin). Would have permitted dealers to have specialized plates. Tabled in Education and Public Works Committee. UPDATE #3.

Automobile insurance (H.2124, Rep. Aydlette). Provides for relationship between insurance companies and insurance agents. Third reading in House on February 20; now in Senate, not yet assigned to committee. UPDATE #3.

DUI penalties (H.2201, Rep. Tucker). Stiffens DUI penalties for persons causing death or serious bodily injury. Passed House on February 5; now in Senate Judiciary. UPDATE #3.

Drivers license changes (H.2231, H.2232, Rep. M.D. Burriss). Gives persons in the military additional time to apply for or renew their drivers licenses. Both measures passed the House on February 19, and are now in the Senate Committee on Transportation. UPDATE #4.

Labor, Commerce and Industry

Automobile insurance (H.2024, Rep. Hayes). Increases minimum required coverage from \$5,000 to \$10,000. Passed House on February 19; now in Senate Banking and Insurance. UPDATE #1.

Automobile insurance requirements (H.2043, rep. J. Rogers). Would have required presenting proof of insurance before receiving registration for vehicles. Tabled in Education and Public Works Committee. UPDATE #1.

Joint underwriting association (H.2016, Rep. John Bradley). Would create such an association to provide insurance for professionals in S.C. when the insurance is not otherwise available. Passed the House on February 11; now in Senate Banking and Insurance Committee. UPDATE #2.

Elect Insurance Commissioner (H.2301, Rep. Rudnick). Would have had the official chosen by the voters, starting in 1988. Tabled in Judiciary. UPDATE #4.

Public Service Commission hearings (H.2302, Rep. Rudnick). Requires the PSC to hold a public hearing in Columbia before granting any utility rate increase. Passed House on February 19; now in Senate Judiciary Committee. UPDATE #4.

Insurance agents (H.2215, Rep. J. Bradley). Requires insurance companies to keep at least one agent in the state to settle claims. Passed House on February 19; now in Senate Banking and Insurance Committee. UPDATE #4.

Law and Justice

Chop shops (H.2015, Rep. McLellan). Proposes banning places where stolen cars are taken apart and then sold. Second reading in House on February 19. UPDATE #1.

Reimbursement by criminals (H.2156, Rep. Mattos). When a criminal has a fine and reimbursement to pay, this would have required the reimbursement to the victim come first. Tabled in Judiciary. UPDATE #3.

Telephone taps (H.2249, Rep. Waldrop). Would have permitted telephone taps in hostage or terrorist situations. Tabled in Judiciary Committee. UPDATE #4.

Bombs (H.2259, Rep. Wilkins). Makes it a crime to use or threaten to use bombs. Passed House on February 18; now in Senate Judiciary. UPDATE #4.

Electronic surveillance (H.2290, Rep. E.B. McLeod). Allows electronic surveillance devices to be used as a condition for probation. Passed second reading in House on February 19. UPDATE #4.

Reckless endangerment (H.2298, Rep. Rudnick). Would have created a new offense, "reckless endangerment," which is basically acting like a crazy fool, but with potentially serious consequences. Tabled in Judiciary. UPDATE #4.

Putting a Limit on Credit Card Interest Rates

The rise and fall of interest rates

The Federal Reserve System loans money to banks. As with any loan agent, the Federal Reserve charges interest on the money it lends. Unlike any other loan agent, however, the Federal Reserve's interest rates affect us all, because the Fed's rates are passed on, up or down, to the customers of the banks who borrow from the Federal Reserve.

In other words, what the prime rate does today, other rates will probably do tomorrow. Except credit card rates, according to some observers.

What goes up does not come down

For years the prime rate was up in the stratosphere, climbing into the high double digits and pulling other interest rates up with it. Then, during the middle 1980s, the prime rate started falling. By 1985 it was down into single digits.

This meant that banks could get their money cheaper: by the fall of 1986 the cost of money to banks had dropped to between 6.5 percent and 7 percent. This fall was reflected in a decline in mortgage rates and auto loan rates. But, according to consumer groups and some legislators, there was no corresponding decline in credit card interest rates.

The average interest on credit card debt held at 18.8% during most of 1986, but many rates—including those in South Carolina—could be as high as 20 or 21%. Why haven't those rates dropped with the prime rate?

Credit card interest rates: the bank version

Banks have a number of reasons why the interest rates on credit cards remain high.

First, say bankers, credit cards are, essentially, loans. The interest paid on the card debt is the much the same as that paid on any other money you borrow—except for one major difference. The card rates are not "interest rate sensitive." That means the cost of money to the bank is not a key point in credit card business.

Only about one-third of the bank's expenses are related to the prevailing interest rate—so it doesn't matter whether the prime rate is high or low.

Other loans—such as house loans, for example—are up to 70-75% interest rate sensitive. The cost of money to the bank is the key factor. When the prime rate falls, the bank's interest rates follow suit. It's not the same with credit cards, bankers maintain.

What does affect the rates then? The cost of doing business, say some analysts. The administration required to handle credit cards is enormous, bankers say. For one thing, there are millions of cards in America—some 723 million, according to one count. The transactions made with these cards, the subsequent paperwork, the employee-hours needed to process that paperwork, and the equipment required are astronomical. Some say the handling charges account for half of the banks' costs in the credit card business.

The paradox of paying off your credit card debt

Another reason for high interest rates on credit cards is that many people pay off their charges each month. According to Donald Mullineaux, an economist at the University of Kentucky, up to half of the card carrying consumers pay off their total balance each month. This is bad for banks.

It's bad because it means that the banks can't collect finance charges from these people. The bank still has to process the transactions, still incurs its costs, but the "convenience users" as Mullineaux dubs them, get off lightly. Oh, sure, a bank can charge an annual fee to offset some of the costs, but that won't amount to much. The only recourse is to keep interest rates high enough to draw money from those of us who don't wipe the slate clean each month.

In a sense—at least according to the Mullineaux theory—paying your debts brings on high interest rates on credit cards. No wonder economics is called "the dismal science."

Bad debts! Bankruptcy! (And other consumer shennigans)

Another reason card rates are high is the high rate of bad debts in the business. Credit card use can be seen as a form of unsecured loans, so when the charges are not paid, there's nothing for the bank to seize. Sometimes the customer absconds; sometimes he declares bankruptcy. In either case, the cost to the bank increases.

So risk becomes a factor in keeping interest rates high. How much of a factor is it? According to Mullineaux "credit-card losses are not terribly large." However, he maintains that "the bad news for consumers is that card losses have been on the rise of late, offering banks little opportunity to drop rates because of an improved outlook for repayment."

Other bankers see the problem of payment as much more serious. One banker, R. Jeffrey Brooks of New Orleans First Bankcard Center is quoted as saying: "The level of delinquencies and chargeoffs is at historic levels." Whatever level of the bad debts, they're one more reason bankers claim for high interest rates.

And finally, bankers point out that they've offered credit cards with low rates, and customers historically refuse to apply for them. According to some in the card game, "Consumers have always been negligent on what they're actually paying" in interest rates.

So, the bank arguments for the high credit card interest rates are these: the rates are not directly tied to the prime rate; the costs of handling card transactions is high; the risk of bad debts must be factored in; and customers don't care, anyway.

The other side of the card

Consumer groups and many state legislators refuse to accept the bank arguments and explanations of credit card interest rates. When they look at the situation they see a picture almost totally different in all aspects.

First, they reject the argument that the prime rate does not affect the credit card interest rate. Even if the bankers' figures are accepted, 30% of the cost of credit cards is due to the cost of money to the banks--and that is directly connected to the prime rate. Even a modest reduction in interest rates would save consumers millions: the Consumer Federation of America says that cardholders could save \$500 million a year if the average credit card interest rates dropped to 17.1%

But then, consumer advocates note, that would mean the banks would lose \$500 million a year if the rates fell. No wonder the rates won't fall.

Bankers' profits on pieces of plastic

As seen, banks make the argument that credit card transactions are a huge administrative cost. Handling all that paperwork takes time and personnel and money. If the prime rate changes had to be factored into the already burdensome work--well, it would be just impossible, the banks maintain. Georgia Powers, a member of the Kentucky Legislature, who has sponsored bills to limit credit card interest rates, disdains this argument. "The sophisticated computer capability of banks today, which would allow them to write a program that would index the interest rate to the discount rate and produce the correct change with the push of a button, makes this argument patently ridiculous."

Another critic of the card interest rates is Elgie Holstein, director of Bank Card Holders of America, a consumer group located in Washington, D.C., our nation's capital. Holstein says that credit card operations, far from draining bank profits, are among their main sources of income.

"Industry sources say profit on credit cards is three to five times greater than any other type of consumer loan," Holstein is quoted by the Shreveport (Louisiana) *Journal* as saying. In addition to the annual fees and interest rates paid by users of the card, merchants pay banks a percentage of each sale for the privilege of offering customers the option to charge purchases—and banks collect usually between 2 to 7 percent of every purchase.

Holstein also denies the risk and operating factors as causing high rates. "No doubt there are losses associated with credit cards, but the total on the average is well under three percent of loan volume." As for the work load, Holstein says the administrative costs have been declining because of the computerization mentioned by Representative Powers.

Finally, there is the banks' position that buyers just don't seem concerned about the interest rates. Holstein says many people don't even know varied rates are available. "Fifty percent of consumers don't understand that different banks can even charge different interest rates for bank cards. They tend to feel a Visa card is a Visa card is a Visa card."

Legislative caps on card interest rates

At this point a new player enters the picture: government. During the 1970s all but two states put caps on the amount of interest that could be charged on the credit cards. Some of the rates are not exactly low: New Jersey's is set at 30%, a figure which caused consumer advocate Holstein to remark, "Frankly, we can get a better deal than that from our corner loan shark."

In recent years a second wave of bills have been introduced to further lower the ceilings allowed for credit card interest rates. Most of these bills, like the one in South Carolina, have a two-part cap. There is a set limit—say, 15%—and a floating limit, which rises and falls with the cost of money to banks.

Connecticut has a set rate of 15%, above which the interest rates cannot go. Texas, Arkansas and Washington have the floating rates, which are tied to the cost of money to the banks. The bill proposed for South Carolina would use the prime rate plus 5% or 15% as the limit—depending upon which was the lower figure.

Should the state impose limits?

The idea that the state might impose a limit on credit card interest rates has caused discussion pro and con in a number of states. Predictably, consumer advocate groups generally favor the limits, while bankers are opposed to them.

In Louisiana, Senator Foster Campbell has tried for several years to get a floating ceiling enacted. Senator Campbell is quoted in Louisiana papers as saying that the profitability of credit cards would not be adversely affected by lower rates, and he points to Connecticut, where banks actually started "rate wars" after a ceiling was imposed. The result was that interest rates fell considerably below the legally-set cap.

Bankers, on the other hand, have attacked Campbell's proposed bill as government interference, and have said that if passed, it would have the effect of driving credit card operations out of Louisiana. Similar predictions were made during the debate in Connecticut; they do not seem to have come true.

In Kentucky, State Representative Georgia Powers has repeatedly sought credit card caps. In an article for the *Louisville Courier-Journal* she wrote: "Banking is a business and a business must make a profit. However, when interest charges remain high and unresponsive to the decreasing cost of funds, it is clear that controls are needed. A flexible rate tied to the discount rate would allow banks a profit without gouging their customers."

She asks why banks don't set the rates lower on their own. "The question is, why should they? They're getting fat on annual credit-card fees, fees they collect from merchants for processing credit-card charges and the usurious interest rates that customers continue to pay, seemingly oblivious to the fact that they are being ripped off."

On the other hand, Donald Mullineaux (he of the Du Pont Chair, remember) says that "Credit-card rates are not too high, consumers are not getting ripped off, and there is no need for more government regulation in the credit-card area."

H. Spenser Nilson, the publisher of a credit card industry newsletter, says that government has no need to intrude in the question of credit card interest rates. Nilson takes the line of the free-market argument, maintaining that natural economic forces will best determine the price of goods—including the price of money and credit.

"What I resent," Nilson told the *Los Angeles Herald Examiner*, "is lawmakers coming in saying, 'You're making too much, so lower your rates.' Why not go to Neiman-Marcus and say, 'You're charging too much for coats?'"

Conclusion

The question of credit and interest has long perplexed law makers. One of the major reasons Julius Caesar overthrew the Roman government and became dictator was his huge debts and their interest. He decided it was easier to subvert the state than repay his debts. During the Middle Ages the Church prohibited Christians from charging interest on loans, since it was felt to be against the spirit of the Bible. The growth of commerce during the later Middle Ages and the Renaissance led to the revival of interest, but ever since governments have wrestled with setting limits on those rates.

And, ever since, bankers and lenders have resisted the efforts. With the rise of capitalism there came the notion that the market place could best determine such things as fair prices and interest rates. This is a concept which has been questioned during recent years, especially since the turbulent economic times following the Great Depression.

Now, once again, there is debate as to whether the government (state or federal) should step in to regulate the interest rates allowed on certain debts—in this case, credit cards.

The bank argument, clearly, is that the forces of the competitive market place will keep credit card interest rates in line. Supporters of ceilings, on the other hand, note that the rates have not fallen with the drop of the prime rate, and that the market place (and the consumer?) needs some help from government. It's a difficult argument, and one with a lot of history behind it.

The Perils of Political Careers

Sometimes it seems that politicians can't get any credit, no matter how much good they do or how high they rise in office. In his book *Presidential Campaigns*, Paul Boller recounts the following story about Franklin Pierce, 14th President of the United States.

In his New Hampshire hometown one man greeted news of the nomination with the exclamation: "Wall, wall, dew tell! Frank Pierce for President! Now Frank's a good fellow, I admit, and I wish him well. He made a good State's attorney, thar's no doubt about that, and he made a fair Jedge, thar's no denyin' that, and nobody kaint complain of him as a Congressman, but when it comes to the hull Yewnited States I dew say that in my jedgment Frank Pierce is a-goin to spread durn thin."

Whistle Blowing in California:
The Investigative Audit Division

Background

"Whistle blowing," is the popular term given to employees who report on crime, fraud, waste or other violations in government operations. In order to encourage this attitude, a number of states have enacted laws which protect whistle blowers. S. 131, recently received in the House, is one such law.

California has taken the process one step beyond that: there, a special division of the Auditor General's Office investigates such charges, and insures that follow-up actions are taken.

The California Reporting of Improper Government Activities Act was passed in 1979 and took effect January 1, 1980. This Act authorized the Joint Legislative Audit Committee to investigate reported improper governmental activities; the Auditor General's Office was charged with administering the program. The Investigative Audit Division was formed to conduct operations.

Tips on improper activity can come from state government employees or the general public. There is a toll-free hotline available 24 hours a day. Informants can remain anonymous. All reports are first screened, and, if the report seems valid, a thorough investigation follows. The Division has developed a process which protects the rights of employees while not hindering the progress of investigation.

The results of all investigations remain confidential, unless the Joint Legislative Audit Committee decides the release of the information would benefit the state.

In 1982 the Division received 132 complaints. Of these, 95 were closed after a preliminary investigation; 31 complaints were substantiated and some form of disciplinary action taken.

Procedures

If the whistleblower desires, he or she can remain anonymous. If they do leave their name, then the Division sends a letter acknowledging the call and giving a case number to refer to. That's one way they keep things confidential.

All cases are logged in and a file is started. Next step is the preliminary investigation, to determine if a fuller study should be made. This goes to the Chief Deputy Auditor General and the Assistant Auditor General of the Performance Audit Division.

Before there can be a full investigation, the Joint Legislative Audit Committee must give its approval. If it does, then the Division develops an investigative plan. An official form has been prepared to note the background, and what approach is planned to use. The approach covers the facts needed, persons to contact, and relevant questions to ask. This must be approved by the Chief Deputy Attorney General and the Assistant Attorney General, Performance Division.

Usually cases take about three to five days, and most of that time is what we call "personal contact"--interviews with staff, reviewing files, and so forth. Any facts discovered that suggest a crime has been committed go to the local D.A. or the State Attorney General.

When a report is submitted, it must go through a ten-step process in the Investigative Division. The manager reviews the report, then the Chief Deputy and the Assistant A.G. look it over. Then the legal eagles pore over it.

The investigator's working papers are cross-indexed by an auditor to the report, making sure each statement and fact is verified by an independent source. After more review by staff, the Chief Deputy Auditor General, and the Auditor General, the report is finally sent to the head of the government agency involved. The agency head must respond within thirty days, indicating what action will be taken with the staff involved.

Typical cases

The Division follows up on reports of improper activities large and small. Some of their investigations have included:

- o An official with the State Fire Marshal's office who travelled from the State capital to his home in a state vehicle or on a commercial airline. He was required to reimburse the State \$3,446.
- o An employee of the Controller's office used her word processor to develop a user's manual for a private word processing company. For this misuse of state property she was reprimanded; the Controller's office has developed monitoring procedures for its equipment.
- o Several state employees were found to be selling Avon products during working hours; they were told to stop.

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- o Two employees of the Department of Mental Health traveled on state time at state expense to give a workshop at a private conference, for which they each received \$50. They had to refund the money. The supervisor received a letter of reprimand; the other employee got a letter of counseling.
- o An employee used state envelopes and postage for a private organization, and had to refund \$36.00 to the state and receive a reprimand.
- o The Department of Materials Engineering at San Jose State University used state funds to mail out over 200 invitations to a retirement party for a university employee. Department heads were reminded about proper mailing procedures, and the Chairman of the Civil Engineering Department reimbursed the state \$45 for the postage and envelopes.

The work of the Investigative Audit Division does not extend to members of the California Legislature. Complaints about improper actions by members of the Assembly are referred to the appropriate Legislative Committee that has jurisdiction over the reported activity.